

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 17.05.2022**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.M.P.No.12434 of 2022**

**in**

**W.P.No.12955 of 2022**

S.Narayanan

... Petitioner

Vs

- 1.The State of Tamil Nadu,  
Rep. by its Secretary,  
Tourism, Religious and Charitable Endowments Department,  
Chennai.
- 2.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Nungambakkam,  
Chennai.
- 3.The Assistant Commissioner/Executive Trustee,  
Arulmighu Devarajaswamy Thirukkovil,  
Sannadhi Street,  
Kanchipuram – 631 501.
- 4.T.A.Ranganathan
- 5.P.B.Rajahamsam

... Respondents

**PRAYER in W.M.P.No.12434 of 2022:** Writ Miscellaneous Petition filed, to pass an order of interim stay of operation of the impugned order, styled as Notice bearing ITMS Code:1864, dated 14.05.2022, issued by the 3<sup>rd</sup> respondent, pending the outcome of this writ petition.

**PRAYER in W.P.No.12955 of 2022:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order, styled as Notice bearing ITMS Code:1864 dated 14.05.2022, issued by the 3<sup>rd</sup> respondent and quash the same as illegal, illogical, arbitrary and unconstitutional.

For Petitioner : Mr.G.Rajagopalan  
Senior Advocate  
For Mr.Abhinav Parthasarathy

Mr.Satish Parasaran  
Senior Advocate

Mr.S.Parthasarathy  
Senior Advocate

Mr.V.Raghavachari

For Respondents :  
For R1 & R2 : Mr.R.Shanmuga Sundaram  
Advocate General  
Assisted by M/s.V.Yamuna Devi  
Special Government Pleader

For R3 : Mr.R.Bharanidharan  
For R4 : Mr.P.Wilson, Senior Advocate

For R5  
For Mr.R.Palaniandavan  
: Mr.T.R.Rajagopalan  
Senior Advocate  
For Mr.M.V.Swaroop

M/s.Hema Sampath, Senior Advocate  
Mr.Srinivasa Raghavan, Senior Advocate

### **INTERIM ORDER**

The writ petition is filed, questioning the validity of the notice issued by the 3<sup>rd</sup> respondent / Assistant Commissioner / Executive Trustee in proceedings dated 14.05.2022.

2. The Miscellaneous Petition is filed to stay the operation of the said notice dated 14.05.2022. The dispute relates to chanting of Srisaila Dayapathram (initial recital) by the Thengalai Sect and chanting of Sri Ramanuja Dayapathram (initial recital) by the Vadagalai Sect. On account of the dispute between Thengalai Sect and Vadagalai Sect, the ordinary devotees are unable to have peaceful Darshan in the subject Temple namely Sri Varadaraja Perumal Temple.

3. The Third respondent / Assistant Commissioner / Executive Trustee, in order to regulate the Temple activities including observance of poojas and rituals, issued the Circular dated 14.05.2022.

4. The contention of the petitioner is that the said Circular impugned violates the fundamental right of worship by the Vadagalai Sect and performance of their recitals in the Temple. It is contended on behalf of the petitioner that the third respondent / Assistant Commissioner totally prohibited the Vadagalai Sect from reciting Naalayira Divya Prabandham and further, prevented from chanting initial recital namely Sri Ramanuja Dayapathram. It is contended that the Vadagalai Sect also chanting the recitals, praising their Guru and the Lord Sri Varadaraja Perumal and therefore, they must also be permitted to recite the same as the right of worship is the fundamental right ensured under Article 25 of the Constitution of India.

5. The respective learned Senior Counsels appearing on behalf of the respondents objected the contentions raised by the petitioner by stating that

already a decree is in force in their favour, which is of the year 1910 and accordingly, the Thengalai Sect alone is entitled to recite Srisaila Dayapathram and Naalayira Divya Prabandham in Sri Varadaraja Perumal Temple and the Vadagalai Sect has no right to recite their Prabandhams. The decree passed by the Court is to be scrupulously followed and therefore, the Vadagalai Sect has no right to participate in chanting of Prabandham including their initial recitals. It is contended that the decree passed in favour of Thengalai Sect in Civil Appeal No.175 of 1910 dated 15.01.1915 is in force and therefore, the said decree is to be followed for the purpose of chanting Prabandhams inside the subject Temple.

6. The learned Senior Counsels appearing on behalf of the petitioner contended that they are not disrespecting the rights conferred on Thengalai Sect by virtue of customary practices. It is further contended that the Vadagalai Sect are not interfering with the Thengalai Sect regarding the right of chanting of Prabandhams and the initial recital namely Srisaila Dayapathram. However, the grievances of Vadagalai Sect is that they are prevented from worshipping their own Guru and chanting Prabandhams.

Therefore, they are constrained to move this Hon'ble Court.

7. It is not in dispute between the parties that the Thengalai Sect enjoys primacy over chanting of their initial recitals namely Srisaila Dayapathram and Prabandhams. When the primacy is not questioned, the right of the Vadagalai equally to worship their Guru and God alone is to be considered. The religious rite guaranteed under the Constitution must be provided to all concerned and discrimination or denial of religious practices, at no circumstances, be allowed by the Courts.

8. A religion may not only laid down a code of ethical rules for its followers to accept, but may also prescribe rituals and observations, ceremonies and modes of worship, which are regarded as an integral part of that religion. Therefore, the constitutional guarantee of freedom of religion enshrined in Article 25(1) extends even to rites and ceremonies associated with a religion.

9. The Court in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India, has power to enforce the fundamental rights guaranteed under Articles 25 and 26 of the Constitution of India. In the present case, the right of Thengalai Sect to recite Srisaila Dayapathram has not been disputed by the Vadagalai Sect. However, prohibition of Thengalai Sect from chanting their initial recital namely Srisaila Dayapathram and Prabandham is in dispute. Even in respect of the judgments cited by the respondents in the case of *V.Srinivasachariar Vs. Thatha Desika Thathachariar and others in Appeal No.283 of 1963 dated 24.03.1969*, the Hon'ble Division Bench made a significant observation as follows:

*“Tolerance and mutual respect are the hall marks of Hinduism and it is a pity that these two sects of Vaishnavites who profess to be the followers of great saints and savants are so intolerant against each other even in respect of small and unimportant rituals and ceremonies. We can only hope that the people belonging to these two sects would realise the futility of this kind of useless and wasteful litigation and stop their acrimonious fight.”*

10. Therefore, the right of worship guaranteed under the Constitution to be respected by all concerned and devotees cannot be denied their right of worship at any circumstances.

11. The third respondent / Assistant Commissioner / Executive Trustee is empowered to regulate the affairs of the Temple and to maintain decorum in all respects and at all times including while performing the rituals, poojas etc., Equally the protection given under Articles 25 and 26 extends to a guarantee for rituals and observances, ceremonies and modes of worship, which are integral part of religion or religious practice and it has to be decided by the Court with reference to the doctrine of a particular religion or practices regarded as parts of religion. Therefore, the sentiment of both Vadagalai Sect and Thengalai Sect are to be respected and mutual respect between them is also of paramount important.

12. Both the Thengalai Sect and Vadagalai Sect are praising and glorifying their respective Guru, who sacrifice their life for the development of Hinduism and praising the Lord Sri Varadaraja Perumal in the subject



Temple. When both the Sects are the worshippers of the Sri Varadaraja Perumal Temple and on account of trivial dispute, the observances of rituals are disrupted continuously, at no circumstances, be tolerated and further, such trivial issues are causing inconvenience to the ordinary devotees, who do not belong to any of these two sects. Every devotee has got a right to enter into the Temple and worship Lord Sri Varadaraja Perumal in the way he likes without affecting the rights of other devotees / worshippers and temple activities.

13. Therefore, opportunity is to be granted to both the sects to glorify their Gurus and to chant Naalayira Divya Prabandham in an uniform manner, so as to complete the rituals. Naalayira Divya Prabandham has been described as 'Tamil Marai' or 'Dravida Vedam' or 'Dravida Prabandham'. Though the Prabandham is available in Tamil language, it is being chanted by the Dravidians, more specifically, Kannadigas, Telugu people and by Tamil people. That exactly is the reason why Naalayira Divya Prabandham is described as 'Dravida Vedam'.

14. The claim of the petitioner is that the initial recital may take hardly 10 to 12 seconds for both the sects i.e., Thengalai Sect and Vadagalai Sect. Thereafter, both the sects will jointly chant Naalayira Divya Prabandham and there is no variation. By providing an opportunity to Vadagalai Sect, Thengalai Sect is not going to be deprived of their right of primacy as claimed by them by virtue of the decree passed during the year 1910.

15. The respective learned Senior counsels appearing on behalf of Vadagalai Sect emphasized that the Vadagalai Sect are not interfering with the right conferred on the Thengalai Sect and the primacy guaranteed to them to sit in front of the Deity in first two rows chanting initial recital namely Srisaila Dayapathram and thereafter, commonly chant Naalayira Divya Prabandham. When such a stand is taken by the Vadagalai Sect, Thengalai Sect also expected to mutually respect the sentiments and right of worship of Vadagalai Sect also. Tolerance is the hall mark principle in Hinduism. Mutual understanding and respect and glorify the Lord alone will preserve the sanctity of the Temple activities and therefore, both the sects

are expected to do services to Lord Sri Varadaraja Perumal instead of fighting on trivial issues of this nature as rights and duties are corresponding and every fundamental right is subject to restrictions so as to maintain public order in Temple administration and its activities. Every religious right is subject to public order. Persons violating the provisions of the Act and Rules are liable to be prosecuted.

16. Section 4 of the Tamil Nadu Temple Entry Authorization Act, 1947, stipulates that the trustee or other authority in charge of a temple shall have power, subject to the control of the State Government and to any rules which may be made by them, to make regulations for the maintenance of order and decorum in the temple and the due observance of the religious rites and ceremonies performed in the temple, but such regulations shall not discriminate in any way against any Hindu on the ground that he belongs to a particular caste or sect.

17. The above provision unambiguously stipulates that even the regulation shall not discriminate in any way against any Hindu merely on

the ground of caste or sect. Therefore, in respect of observance of religious rites, equal opportunity is contemplated. The rules under the Tamil Nadu Temple Entry Authorization Act, 1947 also provides for maintenance of discipline and decorum in Temple building and premises. If any violations are noticed, the 3<sup>rd</sup> respondent / Assistant Commissioner / Executive Trustee is empowered to initiate action against all such violators / offenders. Thus, the third respondent is empowered to regulate the Temple activities and the due observance of religious rites and ceremonies performed in the Temple. But, the condition imposed is that such regulation shall not discriminate any Hindu on the ground that he belong to a particular caste or sect.

18. The learned Advocate General appearing on behalf of the State reiterated that the impugned Circular has been issued as regulatory measure and the 3<sup>rd</sup> respondent has not interfered with the religious rites of the parties. When frequent dispute between Vadagalais sect and Thengalai sect are noticed by the Temple administration, the same necessitated the Assistant Commissioner to issue the regulatory order. Such regulatory orders are passed in consonance with the provisions of the Act and Rules

and to maintain discipline and decorum in the Temple building and premises. Therefore, the impugned order is in consonance with the provisions of the Statutes.

19. The Learned Advocate General clarified by stating that the authorities have never intended to interfere with the religious performance or rituals or otherwise. In view of the fact that the Temple decorum is breached by developing dispute between Vadagalai sect and Thengalai sect, the Executive Officer issued the regulatory order.

20. Considering the facts and circumstances, this Court is of the considered opinion that religious rights of devotees, worshipers, are to be protected. The guarantee under Articles 25 and 26 for the rituals and observance, ceremonies and modes of worship, which all are integral part of religious practices, are also to be taken into consideration by the Courts. In the present case, the right of primacy to chant initial recital and Prabandham by the Thengalai sect is not disputed by the Vadagalai sect. Their request is that they may also be permitted to chant the initial ritual namely Sri

Ramanuja Dayapathram and thereafter, chant Prabandham along with Thengalai sect, which would be more effective for completion of the rituals in the Temple. The Vadagalai sect are ready and willing to co-operate for peaceful observance of rituals without affecting the rights of Thengalai Sect.

21. Under these circumstances, this Court is of the considered opinion that both the sects are expected to respect each other's religious rites and sentiments and right to worship and the guarantee conferred under Articles 25 and 26 of the Constitution of India.

22. In view of the facts and circumstances, this Court is inclined to pass following interim orders:

(1) The Thengalai sect shall be permitted to sit in first two or three rows inside the Temple and behind them, the Vadagalai sect and ordinary devotees shall be permitted to sit in the remaining available space inside the Temple. The seating arrangements shall be regulated by the 3<sup>rd</sup> respondent/ Assistant Commissioner / Executive Trustee in such a manner without affecting discipline and decorum of the rituals and pooja activities.

(2) The Thengalai sect shall be permitted to commence their initial recital namely Srisaila Dayapathram and thereafter, Vadagalai sect shall be permitted to chant initial recital namely Sri Ramanuja Dayapathram within 10 to 12 seconds each and thereafter, both the Thengalai sect, Vadagalai sect and ordinary devotees shall be permitted to jointly chant Naalayira Divya Prabandham in an uniformed manner without disrupting the rituals and poojas and without causing any inconvenience or nuisance to the other devotees and worshippers, who all are present in the Temple.

(3) On completion of chanting of Naalayira Divya Prabandham by Vadagalai sect, Thengalai sect and ordinary devotees, jointly the final ritual namely Vazhithirunamam may be firstly chanted by Thengalai sect i.e., “Manavalamamunigal Vaazhithirunamam” and thereafter, the Vadagalai sect shall be allowed to recite their concluding Mantra i.e., “Desikan Vazhi Thirunamam” and accordingly, the entire process of rituals shall be concluded.

(4) The third respondent / the Assistant Commissioner / Executive Trustee is directed to Monitor the observance of rituals both by the Thengalai sect and Vadagalai sect and in the

event of any violations of discipline and decorum, initiate all appropriate action in the manner known to law including penal actions.

(5) The third respondent / the Assistant Commissioner/ Executive Trustee is directed to make the above arrangements with immediate effect and videograph the events and produce the same before this Court during the next hearing, on 25.05.2022.

(6) The third respondent / the Assistant Commissioner/ Executive Trustee is directed to file a Compliance Report on 25.05.2022.

The Registry is directed to list the matter “For Reporting Compliance” before this Court on 25.05.2022.

**17.05.2022**

*kak/jeni*

**Note: Issue order copy on 17.05.2022**

**S.M.SUBRAMANIAM, J.**



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